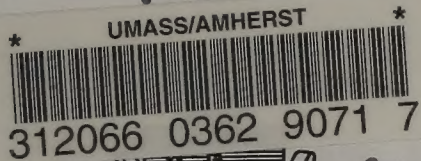


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COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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DIRECTOR, CONSUMER AFFAIRS
AND BUSINESS REGULATION

LINDA RUTHARDT
COMMISSIONER OF INSURANCE

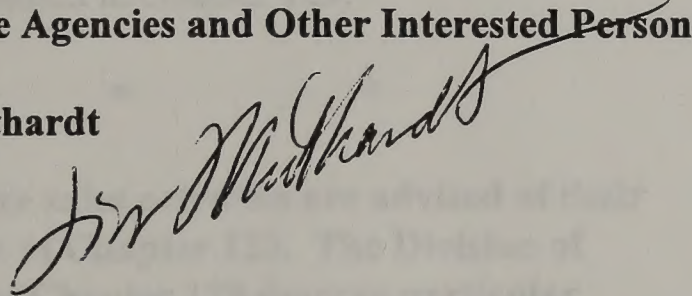
BULLETIN 99-01

TO: Banks, Insurers, Licensed Insurance Agencies and Other Interested Persons

FROM: Insurance Commissioner Linda Ruthardt

DATE: February 12, 1999

RE: Sale of Insurance



This Bulletin is intended to provide guidelines to banks, agents, brokers, insurers, licensees and other interested persons on certain aspects of the sale of insurance by banks. On September 1, 1998, a new law, Chapter 129 of the Acts of 1998, and new Division of Insurance regulations, 211 Code of Massachusetts Regulations ("CMR") 142.00, et seq., took effect in Massachusetts to govern the sale of insurance by banks.

Implementation of the new law, entitled "An Act Providing Consumer Protection Relative to the Sale of Insurance By Banks," is the joint responsibility of the Massachusetts Division of Banks and the Massachusetts Division of Insurance. The Division of Banks also has promulgated regulations under the new law at 209 CMR 49.00, et seq. The focus of this Bulletin is, however, certain licensing aspects of Chapter 129 and 211 CMR 142.00, which are within the purview of the Division of Insurance. For the purpose of this Bulletin, unless otherwise indicated, terms, including the term, "Bank", shall have the meaning set forth in 211 CMR 142.03.

The new law gives a bank "the power to sell [insurance products], either directly or indirectly through an affiliate or a subsidiary corporation established for the purpose or a third party agreement, and acting either as an agent licensed pursuant to section 163 of chapter 175 or a broker licensed pursuant to section 166 of said chapter 175" If a bank applies to have an affiliate or a subsidiary corporation licensed as an insurance agent or broker, then such corporation must be organized as a "single purpose" insurance corporation under § 174 of Chapter 175.

When a third party is properly licensed as an agent or broker by the Massachusetts Division of Insurance, a bank wishing to enter into an agreement with that third party need not be licensed pursuant to Chapter 129 unless the agreement provides for the sharing of commissions with the

licensed third party. This is applicable also when a third party leases space in a bank under agreement with the bank to sell insurance products. § 177 of Chapter 175 prohibits payment of commissions to unlicensed agents and brokers. The Division of Insurance considers payments based on a percentage of premium to be commissions, consistent with Division of Insurance Bulletin B-91-01 and applicable law.

Please Be Advised of the Following: The Division of Insurance has revised its agent and broker license applications and license renewal applications to include questions concerning an agent's or broker's bank sales activities. If an agent or broker is engaged in insurance sales under a third party agreement with a bank, the bank itself or the third party must file a Plan of Operation and comply with the consumer protection provisions contained in Chapter 129.

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Banks which are or wish to be engaged in insurance sales activities are advised of their obligation to comply with all applicable provisions of Chapter 129. The Division of Insurance believes the following cited provisions of Chapter 129 deserve particular emphasis:

“Officers, tellers and other employees of a bank who are not licensed as insurance agents may refer a customer of said bank to a licensed insurance agent of the bank only when such customer initiates an inquiry relative to the availability or acquisition of insurance products. No such officer, teller or other employee shall be further or additionally compensated for making said referrals.” §2A(b)(2).

“A bank is hereby prohibited from tying the availability and extension of credit by a bank to the purchase of insurance products from said bank.” §2A(b)(4)(I)

“No bank engaged in the direct sales of insurance products shall discriminate against an applicant or allow an affiliate, a subsidiary corporation established for the purpose or a third party acting on its behalf to discriminate against an applicant for any insurance products offered by it based upon race, color, national origin or residence of the applicant, or on such other basis as the commissioner may determine. No bank offering insurance products at its main office or any branch thereof established pursuant to chapter 167C, shall refuse to offer the same at every such branch of the bank.” §2A(b)(8)

“Any violations of the provisions contained in this section shall be subject to the applicable provisions of chapter 167, including, but not limited to, sections 2A to 2G, inclusive, and to applicable provisions of chapter 175 and chapter 176D, including, but not limited to, penalties, cease and desist orders, and suspension or loss of license.” §2A(c)

To obtain a bank insurance license application or renewal application, please contact Robert Krumscheid at (617) 521-7447.

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LINDA RUTHARDT
COMMISSIONER OF INSURANCE

BULLETIN 99-02

To: Automobile Insurers, Agents, Producers, and other Interested Persons

From: Insurance Commissioner Linda L. Ruthardt

Date: February 26, 1999

RE: Unauthorized Modifications to Private Passenger Automobile Insurance Policy Applications

The Division of Insurance ("Division") has been made aware of instances where some automobile insurers are making inappropriate modifications to private passenger automobile policies by unilaterally substituting information obtained from sources other than the insured's application ("third-party information") without the prior consent of the insured. The purpose of this bulletin is to remind companies that such practices are not legally permissible.

Reportedly, this practice has resulted in coverage problems for some drivers. For instance, use of such third party information, which typically relates to the applicant's principal place of garaging or the identity of other operators of the vehicle, can change the total premium amount due and, consequently, the required down payment. As a result, some insureds have been issued cancellation notices for non-payment on the grounds that the initial down payment calculated by the agent and paid by the applicant had become insufficient after different third-party information was substituted by the insurer.

In other instances, an insurer's use of third party information (such as outdated Registry of Motor Vehicle information) as evidence of the "principal place of garaging", has led to an improper mailing address resulting in the insured not receiving relevant notice(s) concerning premium payments, cancellation, etc. The policy is subsequently wrongfully cancelled for non-payment of the adjusted premium amounts without the insured first receiving actual notice or an opportunity

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BULLETIN 99-02

To: American Institute of Physics, and other interested parties

[Handwritten signature]

From: Lawrence E. Matthews, Jr., Director

Date: February 10, 1999

Re: Request for information regarding the proposed
amendment to the Massachusetts Public Access Law

The purpose of this letter is to inform you of the proposed amendment to the Massachusetts Public Access Law, which would require the deposit of certain government documents in a publicly accessible repository. The proposed amendment would apply to all documents that are produced by or for the Commonwealth of Massachusetts, and would require that such documents be deposited in the Massachusetts State Archives, or in another repository designated by the Archives.

Specifically, the proposed amendment would require that all documents that are produced by or for the Commonwealth of Massachusetts, and that are of a type that is likely to be of permanent value, be deposited in the Massachusetts State Archives, or in another repository designated by the Archives. The proposed amendment would also require that the Archives maintain a list of all documents deposited in its custody, and that it make such documents available to the public.

In order to ensure that the proposed amendment is implemented in a manner that is consistent with the intent of the law, the Archives has requested that you provide information regarding the documents that you propose to deposit in its custody. This information should be provided to the Archives by the date indicated on the attached form.

to address any alleged errors in the information provided to the insurer. The Massachusetts Automobile Policy requires that notice be sent to the last address appearing on the insured's Coverage Selections Page. As to new insureds for whom a Coverage Selections Page may not have yet issued, notice should be sent to the last address known to the insurer (i.e., the address provided on the application).

Due to the potential unreliability of such third party information, in order to prevent wrongful cancellations, if during the underwriting process an insurer discovers *third-party* information that appears inconsistent with the information provided on the application for insurance, the insurer shall 1) initiate an inquiry either directly with the insured or through the producer of record to resolve any alleged factual errors¹; and 2) obtain the insured's consent before issuing a notice of adjustment to the down payment and/or total premium².

This Bulletin is not meant in any way to restrict an insurer's legal rights of cancellation. If, after inquiring with an applicant, an insurer believes (based upon third party information) that the applicant has materially misrepresented the facts, and the applicant is unwilling to consent to the insurer's proposed modifications, the insurer may, in accordance with the provisions of the Massachusetts Automobile Policy and applicable law, issue a notice of cancellation on the grounds of material misrepresentation.³ In cases where an insurer has reliable information of its own that is *independent* of the third-party information sources described herein, and such information shows that a clear material misrepresentation was made on the application, the above inquiry is not required and the insurer may cancel the policy in accordance with the provisions of the Massachusetts Automobile Policy and applicable law.

Please Note: If an insurer has grounds to believe that a misstatement of fact was made by an agent, with or without the insured's knowledge or consent, it should refer the matter to the Division of Insurance or the Insurance Fraud Bureau for investigation.

¹ The term "Producer" is meant to be inclusive of all agents, brokers and Exclusive Representative Producers as defined by Commonwealth Automobile Reinsurers. If the inquiry is made directly to the applicant, the producer of record should be copied.

² The inquiry by the company and consent/refusal to make modifications by the insured may be verbal provided that the insurer follows up promptly with a letter that confirms the inquiry and describes its outcome.

³ Under the Cancellation provisions of the Massachusetts Automobile Policy, if an insurer believes that an applicant has made a fraudulent or material misrepresentation when the insured applied for the policy, then the insurer has the option to initiate a cancellation of that policy.

